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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA**

A&B IRRIGATION DISTRICT,)	CASE NO. CV 2011-000512
)	
Petitioner,)	
)	Fee Category L.4 - \$86.00

vs.

THE IDAHO DEPARTMENT OF WATER)	NOTICE OF APPEAL
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RESOURCES and GARY SPACKMAN in his
 official capacity as Interim Director of the Idaho
 Department of Water Resources,

Respondents,

and

THE CITY OF POCA TELLO, IDAHO
 GROUND WATER APPROPRIATORS, INC.

Intervenors.

IN THE MATTER OF THE PETITION FOR
 DELIVERY CALL OF A&B IRRIGATION
 DISTRICT FOR THE DELIVERY OF
 GROUND WATER AND FOR THE
 CREATION OF A GROUND WATER
 MANAGEMENT AREA

TO: THE ABOVE NAMED RESPONDENTS, INTERIM DIRECTOR GARY SPACKMAN AND THE IDAHO DEPARTMENT OF WATER RESOURCES, AND THE PARTIES' COUNSEL OF RECORD IDENTIFIED ON THE CERTIFICATE OF SERVICE; AND THE CLERK OF THE ABOVE ENTITLED DISTRICT COURT

NOTICE IS HEREBY GIVEN THAT:

1. The above named Appellant, A&B IRRIGATION DISTRICT ("Appellant") appeals against the above named respondents to the Idaho Supreme Court from the district court's *Amended Order on Motion to Dismiss and Motion to Strike*, entered in the above entitled action on August 29, 2011, the Honorable Eric J. Wildman presiding. Judge Wildman entered a Rule 54(b) certificate of final judgment on August 29, 2011.
2. The above named Appellant has a right to appeal to the Idaho Supreme Court, and the order described in paragraph 1 is an appealable order pursuant to Rule 11(a)(3), I.A.R.
3. The Appellant's preliminary statement of issues it intends to assert on appeal, which under I.A.R. 17, does not prevent the Appellant from asserting other issues, is as follows:
 - a. Whether the District Court erred by ignoring the plain meaning of the Idaho APA in concluding that the Director of the Idaho Department of Water Resources did not have to dispose of A&B's petition for reconsideration within twenty-one (21) days as required by Idaho Code § 67-5246 and IDAPA 37.01.740.02.a? Whether the petition for reconsideration was denied as a matter of law when the Director failed to dispose of the petition within 21 days as required by law?
 - b. Whether the District Court erred in dismissing A&B's petition for judicial review of the Interim Director's April 27, 2011 *Final Order on Remand Regarding A&B Irrigation District Delivery Call*?
 - c. Whether the District Court erred in denying A&B's motion to strike the *Affidavit of Chris M. Bromley*?
4. No order has been entered sealing any portion of the record.
5. (a) Is a reporter's transcript requested? **NO**

6. The Appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R.:

Interim Director's Final Order on Remand Regarding A&B Irrigation District Delivery Call (April 27, 2011)

IDWR Motion and Memorandum in Support of Dismissal of A&B Irrigation District's June 24, 2011 Notice of Appeal and Petition for Judicial Review of Agency Action (July 7, 2011)

Affidavit of Chris M. Bromley (July 7, 2011)

Petitioner's Statement of Initial Issues (July 11, 2011)

A&B's Response to IDWR's Motion to Dismiss (July 21, 2011)

A&B's Motion to Strike Affidavit of Chris M. Bromley in Support of IDWR's Motion to Dismiss (July 21, 2011)

IDWR Response to A&B's Motion to Strike Affidavit of Chris M. Bromley (July 26, 2011)

IDWR Reply in Support of its Motion to Dismiss (August 2, 2011)

Second Affidavit of Chris M. Bromley (August 2, 2011)

7. I certify:

- a. That the estimated fee for preparation of the clerk's record has been paid.
- b. That the appellant filing fee has been paid.
- c. That service has been made upon all parties to be served pursuant to Rule 20.

DATED this 15th day of September, 2011.

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Attorneys for Petitioner A&B Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of September, 2011, I served true and correct copies of the *Notice of Appeal* upon the following by the method indicated:

SRBA District Court
253 3rd Ave. North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivery
☐ Overnight Mail
☐ Facsimile
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